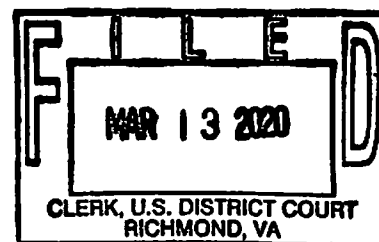


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



WILLIAM SATTERFIELD,

Plaintiff,

v.

Civil Action No. 3:19CV53

OFFICER DAVIS, *et al.*,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Virginia prisoner proceeding *pro se*, filed this action. The matter is before the Court on Plaintiff's failure to serve the defendants within the time required by Federal Rule of Civil Procedure 4(m). Rule 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

Fed. R. Civ. P. 4(m).


Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff had 90 days from the filing of the complaint to serve the defendants. Here, that period commenced on September 24, 2019. By Memorandum Order entered on January 15, 2020, the Court directed Plaintiff, within eleven (11) days of the date of entry thereof, to show good cause for his failure to serve the defendants within the time required by Rule 4(m).

Courts within the United States Court of Appeals for the Fourth Circuit found good cause to extend the 90-day time period when the plaintiff has made "reasonable, diligent efforts to effect service on the defendant." *Venable v. Dep't of Corr.*, No. 3:05cv821, 2007 WL 5145334, at *1 (E.D. Va. Feb. 7, 2007) (quoting *Hammad v. Tate Access Floors, Inc.*, 31 F. Supp. 2d 524, 528 (D.

Md. 1999)). Neither *pro se* status nor incarceration constitutes good cause. *Sewraz v. Long*, No. 3:08CV100, 2012 WL 214085, at *1–2 (E.D. Va. Jan. 24, 2012) (citation omitted). Here, Plaintiff has requested an extension of time. (ECF No. 19.) Plaintiff, however, fails to demonstrate that he has made “reasonable, diligent efforts to effect service on the defendant[s].” *Venable*, 2007 WL 5145334, at *1 (quoting *Hammad*, 31 F. Supp. 2d at 528). Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Date: 12 March 2020
Richmond, Virginia

/s/ 
John A. Gibney, Jr.
United States District Judge